

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Martien Eerhart and Susanna Eerhart

Federal National Mortgage Association,

VS.

Martien Eerhart and Susanna Eerhart

CHAPTER 7
CASE NO. 09-12115-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

Federal National Mortgage Association, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 7105 Corporate Drive PTX-C-35, Plano, TX 75024.
2. The debtors, Martien Eerhart and Susanna Eerhart, have a mailing address of 1352 Newport Avenue, Pawtucket, RI 02861.
3. On May 29, 2009, the debtors filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$96,000.00 given by Martin Eerhart and Susanna Eerhart to Mortgage Electronic Registration Systems, Inc. on or about June 12, 2006. Said mortgage is recorded with the Providence Land Records at Book 8109, Page 56 and covers the premises located at 77 Seamans Street, Providence, RI 02908.
5. Said mortgage secures a note given by Susanna Eerhart to GreenPoint Mortgage Funding, Inc. in the original amount of \$96,000.00.
6. As of August 11, 2009, approximately \$103,420.37 in principal, interest, late fees and other

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charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.

7. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Federal National Mortgage Association	First Mortgage	\$103,420.37
GMAC Mortgage, LLC	Creditline	\$11,793.00
Total Secured Encumbrances:		\$115,213.37

8. According to the tax assessor's office, the assessed value of the subject property is \$145,000.00.

9. The note and mortgage are in default for the September 1, 2008 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.

10. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtors are in default on said contractual obligations.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtors and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court

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order such other and further relief as may be just and proper.

Respectfully submitted,

Federal National Mortgage Association,
By its Attorney

/s/ Elizabeth A. Lonardo

Elizabeth A Lonardo, Esquire

RI #7714

HARMON LAW OFFICES, P.C.

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August 13, 2009

Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Elizabeth A. Lonardo, Esquire, state that on August 13, 2009, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee
Stacy B. Ferrara, Esquire, Chapter 7 Trustee
Peter G. Berman, Esquire for the Debtors

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Elizabeth A. Lonardo
Elizabeth A. Lonardo, Esquire
RI# 7714

Martien Eerhart
1352 Newport Avenue
Pawtucket, RI 02861

Susanna Eerhart
1352 Newport Avenue
Pawtucket, RI 02861

GMAC Mortgage, LLC
3451 Hammond Avenue
Waterloo, IA 50704

Recovery Management Systems Corp.
25 S.E. 2nd Avenue
Suite 1120
Miami, FL 33131

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